

To: All Employees of the Japan-U.S. Friendship Commission (JUSFC)

From: Paige Cottingham-Streater (EEO Director/Executive Director)

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## **Japan U.S. Friendship Commission Anti-Harassment Policy**

The Japan-U.S. Friendship Commission (JUSFC) strives to create and maintain a work environment in which people are treated with dignity, decency, and respect. The environment of the agency should be characterized by mutual trust and the absence of discrimination, intimidation, oppression, and exploitation. JUSFC will not tolerate unlawful discrimination or harassment of any kind, including but not limited to harassment based on gender identity, pregnancy, genetic information, and retaliation for previous EEO activity as bases. JUSFC will address unwelcome conduct before it becomes unlawful harassment. Through enforcement of this policy and by education of employees, JUSFC will seek to prevent, correct, and discipline behavior that violates this policy.

All employees, regardless of their positions, are covered by and are expected to comply with this policy and to take appropriate measures to ensure that prohibited conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this policy. Based on the seriousness of the offense, disciplinary action may include verbal or written reprimand, suspension, or termination of employment.

Managers and supervisors who knowingly allow or tolerate discrimination, harassment or retaliation, including the failure to immediately report such misconduct to the agency's EEO Director/Executive Director, are in violation of this policy and subject to disciplinary action.

### **Prohibited Conduct Under This Policy**

JUSFC in compliance with all applicable federal, state, and local anti-discrimination and harassment laws and regulations, enforces this policy in accordance with the following definitions and guidelines:

## **Discrimination**

It is a violation of JUSFC's policy to discriminate in the provision of employment opportunities, benefits or privileges; to create discriminatory work conditions; or to use discriminatory evaluative standards in employment if the basis of that discriminatory treatment is, in whole or in part, the person's race, color, national origin, age, religion, disability status, sex, sexual orientation, gender identity or expression, genetic information or marital status.

Discrimination of this kind may also be strictly prohibited by a variety of federal, state and local laws, including Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1967 and the Americans with Disabilities Act of 1990. This policy is intended to comply with the prohibitions stated in these anti-discrimination laws. Discrimination in violation of this policy will be subject to disciplinary measures up to and including termination.

## **Harassment**

Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA). JUSFC prohibits harassment of any kind and will take appropriate and immediate action in response to complaints or knowledge of violations of this policy.

Harassment is unwelcome conduct that is based on race, color, religion, sex (including sexual orientation, gender identity, or pregnancy), national origin, age (beginning at age 40), disability, or genetic information (including family medical history). Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws. Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality.

To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name-calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance.

- Verbal harassment includes but is not limited to comments that are offensive or unwelcome regarding a person's national origin, race, color, religion, age, sex, sexual orientation, pregnancy, appearance, disability, gender identity or expression, marital status or other protected status, including epithets, slurs and negative stereotyping.
- Nonverbal harassment includes but is not limited to distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, appearance, disability, sexual identity, marital status or other protected status.

Harassment can occur in a variety of circumstances, including, but not limited to, the following:

- The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.
- The victim does not have to be the person harassed but can be anyone affected by the offensive conduct.
- Unlawful harassment may occur without economic injury to, or discharge of, the victim.

### **Sexual harassment**

Sexual harassment is a form of unlawful employment discrimination under Title VII of the Civil Rights Act of 1964 and is prohibited under [Company Name]'s anti-harassment policy. According to the EEOC, sexual harassment is defined as “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature ... when ... submission to or rejection of such conduct is used as the basis for employment decisions ... or such conduct has the purpose or effect of ... creating an intimidating, hostile or offensive working environment.”

Sexual harassment occurs when unsolicited and unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature:

- Is made explicitly or implicitly a term or condition of employment.
- Is used as a basis for an employment decision.
- Unreasonably interferes with an employee's work performance or creates an intimidating, hostile or otherwise offensive environment.

Sexual harassment may take different forms. The following examples of sexual harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

- Verbal sexual harassment includes innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks and threats; requests for any type of sexual favor (this includes repeated, unwelcome requests for dates); and verbal abuse or "kidding" that is oriented toward a prohibitive form of harassment, including that which is sexual in nature and unwelcome.
- Nonverbal sexual harassment includes the distribution, display or discussion of any written or graphic material, including calendars, posters and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex; suggestive or insulting sounds; leering; staring; whistling; obscene gestures; content in letters, notes, facsimiles, e-mails, photos, text messages, tweets and Internet postings; or other forms of communication that are sexual in nature and offensive.
- Physical sexual harassment includes unwelcome, unwanted physical contact, including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling, and forced sexual intercourse or assault.

Courteous, mutually respectful, pleasant, noncoercive interactions between employees that are appropriate in the workplace and acceptable to and welcomed by both parties are not considered to be harassment, including sexual harassment.

## **Retaliation**

No hardship, loss, benefit or penalty may be imposed on an employee as retaliation for previous EEO activity such as:

- Filing or responding to a bona fide complaint of discrimination or harassment.
- Appearing as a witness in the investigation of a complaint.
- Serving as an investigator of a complaint.

Lodging a bona fide complaint will in no way be used against the employee or have an adverse impact on the individual's employment status.

Any person who is found to have violated this aspect of the policy will be subject to discipline up to and including termination of employment.

## **Confidentiality**

All complaints should be brought directly to the attention of the EEO Director/Executive Director. If the complaint is related to the Executive Director, it should be brought to the attention of the Deputy Executive Director. All complaints and investigations are treated confidentially to the extent possible, and information is disclosed strictly on a need-to-know basis. The identity of the complainant is usually revealed to the parties involved during the investigation, and the EEO director and JUSFC's personnel services provider GSA/CABS will take adequate steps to ensure that the complainant is protected from retaliation during and after the investigation. All information pertaining to a complaint or investigation under this policy will be maintained in secure files within JUSFC.

## **Complaint procedure**

JUSFC has established the following procedure for lodging a complaint of harassment, discrimination or retaliation. The agency will treat all aspects of the procedure confidentially to the extent reasonably possible.

All employees are encouraged to report complaints of harassment to the Executive Director or Deputy Executive Director, as appropriate. Upon receipt of a harassment complaint, the JUSFC is required to begin a prompt, thorough and impartial investigation within 10 calendar days.

When allegations are substantiated, immediate and appropriate corrective action must be taken to eliminate harassment activity. JUSFC will ensure immediate corrective action to occur within 60 calendar days of receiving notice of a harassment allegation. The Executive Director of JUSFC will determine the appropriate corrective action when harassment is found to have occurred.

1. Complaints should be submitted as soon as possible after an incident has occurred, preferably in writing. The EEO director may assist the complainant in completing a written statement or, in the event an employee refuses to provide information in writing.
2. Upon receiving a complaint or being advised by a supervisor or manager that violation of this policy may be occurring, the EEO Director/Executive Director will inform GSA/CABS and review the complaint with JUSFC's legal counsel.
3. The Executive Director in consultation with the GSA/CABS director will initiate an investigation to determine whether there is a reasonable basis for believing that the alleged violation of this policy occurred.
4. If necessary, the complainant and the respondent will be separated during the course of the investigation, either through internal transfer or administrative leave.
5. During the investigation, the EEO director, the GSA/CABS director together with legal counsel will interview the complainant, the respondent and any witnesses to determine whether the alleged conduct occurred.
6. Upon conclusion of an investigation, the GSA/CABS director or other person conducting the investigation will submit a written report of their findings to the agency. If it is determined that a violation of this policy has occurred, the GSA/CABS director will recommend appropriate disciplinary action. The appropriate action will depend on the following factors:
  - a) the severity, frequency and pervasiveness of the conduct;
  - b) prior complaints made by the complainant;
  - c) prior complaints made against the respondent; and
  - d) the quality of the evidence (e.g., firsthand knowledge, credible corroboration).

If the investigation is inconclusive or if it is determined that there has been no violation of policy but potentially problematic conduct may have occurred, the GSA/CABS director may recommend appropriate preventive action.

7. JUSFC's Chair and the Executive Director will review the investigative report and any statements submitted by the complainant or respondent, discuss results of the investigation with the HR director and other management staff as appropriate, and decide what action, if any, will be taken.
8. Once a final decision is made by senior management, the GSA/CABS director will meet with the complainant and the respondent separately and notify them of the findings of the investigation. If disciplinary action is to be taken, the respondent will be informed of the nature of the discipline and how it will be executed.

### **Alternative legal remedies**

Nothing in this policy may prevent the complainant or the respondent from pursuing formal legal remedies or resolution through local, state or federal agencies or the courts.

Employees are encouraged to inform the harasser directly that the conduct is unwelcome and must stop. Employees should also report harassment to management at an early stage to prevent its escalation.

All personnel are entitled to perform their duties in an environment that is free from harassment and unlawful discrimination. Dedicated commitment to this policy provides a sound basis for employees to achieve JUSFC stated goals and objectives successfully.

This Policy is intended to assure that the Japan-U.S. Friendship Commission is taking all necessary steps to prevent sexual harassment and other forms of harassing conduct in the workplace, and to correct harassing conduct that does occur before it becomes severe, pervasive, or unlawful. All complaints of harassment will be undertaken in a strictly confidential manner.

Paige Cottingham-Streater

Executive Director

Japan-US Friendship Commission